

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON FINANCE

Call to Order: By **CHAIRMAN BOB KEENAN**, on January 24, 2001 at 5:00 P.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Bob Keenan, Chairman (R)
Sen. Ken Miller, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. Chris Christiaens (D)
Sen. John Cobb (R)
Sen. William Crismore (R)
Sen. Greg Jergeson (D)
Sen. Royal Johnson (R)
Sen. Bea McCarthy (D)
Sen. Linda Nelson (D)
Sen. Debbie Shea (D)
Sen. Corey Stapleton (R)
Sen. Bill Tash (R)
Sen. Jon Tester (D)
Sen. Mignon Waterman (D)
Sen. Jack Wells (R)
Sen. Tom Zook (R)

Members Excused: Sen. Arnie Mohl (R).

Members Absent: None.

Staff Present: Prudence Gildroy, Committee Secretary
Jon Moe, Legislative Fiscal Division

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 246, 1/16/2001; SB 244,
1/16/2001
Executive Action: SB 179

Tape : 1; Side : A

CHAIRMAN KEENAN introduced committee business involving a bill that came from the Select Committee on Information Technology.

EXHIBIT (fcs19a01)

SEN. JERGESON related that the Select Committee on Information Technology, which was established as the result of work during the interim by the Legislative Finance Committee, received a presentation from the Information Services Division of the Department of Administration. One of the programs was about Electronic Government services to the public in the State of Montana. The committee had some questions about those services and the underlying contract with a private firm, and members of the Select Committee wanted to codify the relationships. The draft legislation was reviewed by the Select Committee and on motion was approved to be requested as a Committee Bill. **Greg Petesch** informed the Select Committee that it did not have the authority to request a Committee Bill and that a Standing Committee must do so. The bill will be heard and examined in detail by the SFC. Having missed the deadlines, the bill needs to be introduced in order to cover the concerns of the Select Committee.

Motion/Vote: **SEN. JERGESON** moved **TO REQUEST THE DRAFTING OF A BILL PROVIDING FOR ELECTRONIC GOVERNMENT SERVICES AND PROVIDING AN EFFECTIVE DATE.** Motion passed 14-0.

HEARING ON SB 246

Sponsor: **SEN. DALE MAHLUM, SD 35, Missoula**

Proponents: **Jeff Tiberi, Executive Director of the Montana Heritage Commission**
Byron Roberts, Montana Building Industry Association

Opponents: **None.**

Opening Statement by Sponsor:

SEN. DALE MAHLUM, SD 35, Missoula, introduced SB 246, an act to create a Heritage and Preservation Trust Fund; providing for a fund transfer from the State general fund to the Trust Fund; providing for the deposit of the interest and earnings from the Trust Fund in the Heritage and Preservation Development account; and providing an effective, immediate date (and termination date). **SEN. MAHLUM** stated that in the 1860s there was a small period of time when the largest town between San Francisco and Minneapolis was Virginia City, Montana.

Proponents' Testimony:**Jeff Tiberi, Executive Director of the Montana Heritage**

Commission presented a slide show about the Virginia City project, showing buildings, land, artifacts, inventory list and other facts and figures. The jobs of the Montana Heritage Commission are to protect the buildings and artifacts, and make money. Challenges include artifact curation and upkeep, building preservation and upkeep, communication, re-wiring, fire prevention, funding, infrastructure, interpretation, marketing, and visitor services. He described in detail the progress that has been made and other sources of support for the project. Revenue has doubled over four years and finding money for capital investment has been somewhat successful. Capital needs are \$22 million. Next year the operating budget will be reduced by 25%, and there is \$450,000 this year for operations. Four years of state support was not realistic. Without state support there will be less maintenance thus less revenue. New capitol dollars will allow emergency stabilization of problems, seeking of matching funds, replacement of outdated wiring, construction of fire prevention systems, improved security, construction of restrooms and maintenance facilities. Virginia City is a treasure and has the potential to become a destination resort. Montana has a long and beneficial history of trust funds and **Mr. Tiberi** urged support for SB 246 (the bill will use unallocated funds at the end of the fiscal year for this trust fund.)

EXHIBIT (fcs19a02)

Byron Roberts, Montana Building Industry Association stated the importance of preserving historical sights, our culture and history, our streams, forests and uninterrupted vistas. These things are important to all Montanans. Government has a significant interest in preserving these things and should be given tools to purchase land, to secure easements, and to compensate property owners in the process. The Heritage Preservation Development Trust is an important tool towards this end and will result in an economic and social enhancement of the State. He urged the passage of SB 246.

Opponents' Testimony: None.

Questions from Committee Members and Responses: None.

Closing by Sponsor: SEN. MAHLUM closed on SB 246, thanking the committee for taking the evening to see what citizens of Montana own and asking for consideration from the committee.

HEARING ON SB 244

Sponsor: SEN. MIKE HALLIGAN, SD 34, Missoula.

Proponents: Kate Cholewa, for Ren Essene and Philip Maechling
Bruce Brensdal, Department of Commerce
Newell Anderson, Department of Commerce
Tim Davis, Executive Director Montana Smart Growth
Coalition
Gene Lewwer, Executive Director Rocky Mountain
Development Council
Rhonda Carpenter, Montana Housing Providers
Sharon Hoff-Brodowy, Montana Catholic Council
Byron Roberts, Montana Building Industry
Association
Linda Stoll, Montana Association of Planners

Opponents: None.

Opening Statement by Sponsor:

SEN. MIKE HALLIGAN, SD 34, Missoula, stated that SB 244 does not build any housing or take money away from anyone else. It takes the existing criteria that is currently used in the Treasure State Endowment when projects are ranked and allows

{Tape : 1; Side : B} (Side B is blank for the first minute)

infrastructure projects to get additional points if addressing the issues of low income and moderate housing.

EXHIBIT(fcs19a03)

EXHIBIT(fcs19a04)

Proponents' Testimony:

Kate Cholewa presented testimony for **Ren Essene, Executive Director of HomeWORD Housing Development Corporation**, a builder of low income housing in Billings and Missoula, urging support for SB 244. She also presented testimony for **Philip Maechling, Earthworks Collaborative**, who urged passing of SB 244. Affordable housing for working people can be assisted by adopting this funding option.

EXHIBIT(fcs19a05)

EXHIBIT(fcs19a06)

Bruce Brensdal, Administrator of the Housing Division, Department of Commerce, and Executive Director of the Board of Housing urged passage of the bill. He presented written testimony and also stated that many communities are finding that the lack of affordable housing is a major obstacle in the expansion of local

businesses and the attraction of new business investments. This proposal is to establish a new statutory priority to encourage the construction of infrastructure and support of affordable developments for low and moderate income families. The Treasure State Trust Fund, in conjunction with other federal housing programs and the Montana Board of Housing, could potentially leverage millions of dollars in the investment of local housing projects in the state.

EXHIBIT (fcs19a07)

Newell Anderson, Division Administrator, Local Government Assistance Division, Department of Commerce. There is evidence that the absence of affordable infrastructure is hindering the development of affordable housing. He suggested that the addition to the capacity of Treasure State Endowment Program (TSEP) does not in any way diminish the importance of and access to the critical part of TSEP, the Health and Public Safety criteria. It is that criteria that is the strongest of the legislative criteria for reviewing TSEP applications. The bill does not push that aside and does not build houses, it builds infrastructure.

Tim Davis, Executive Director of the Montana Smart Growth Coalition, supported passage of the bill. The Coalition, made up of twenty-seven member groups throughout the state representing farmers, ranchers, low income people, smart growth advocates, local planning groups, and conservationists, is in support of the bill because affordable housing in town is more affordable when the infrastructure is provided through some type of subsidy. People often move out of town to find affordable housing. The maintenance of infrastructure outside of town, such as septic and sewer, often ends up costing the homeowner more money over time than it would inside the city. While land may be more expensive in the cities than outside of town, if infrastructure is subsidized, it becomes cheaper over time for low income and moderate income families to actually live in town. This bill will help provide affordable housing in town. Affordable housing is also good for taxpayers. Providing affordable housing in town, which this project will help do by possibly subsidizing infrastructure, is more efficient use of local government resources. The cost of providing services in town is actually less than outside of town. When developments go outside of town, it also uses up productive farm and ranch land and habitat.

Gene Lewwer, Executive Director of the Rocky Mountain Development Council spoke in support of the bill on behalf of his agency, which is in the development business of affordable housing for low income people, as well as the Human Resource District Councils of the State. The cost of land is a very significant

factor and a big chunk of that cost is the infrastructure that this amendment would help address. In Lewis and Clark County between 1970 and 1999, in the incorporated cities of Helena and East Helena, there was about a 16% increase in population. In the unincorporated areas of the county, there was a 161% increase in population in those same years. The cost of development, the difficulties in extending city boundaries and the cost to do that drives populations outside the cities. This (bill) would address two issues that would lead to more affordable housing in cities.

Rhonda Carpenter, for **Montana Housing Providers**, a coalition of landlord associations made up of over a thousand landlords across the state dedicated to providing affordable and safe housing urged support for the changes to TSEP.

Sharon Hoff-Brodowy, for **Montana Catholic Conference** spoke in support of SB 244.

Byron Roberts, **Montana Building Industry Association**, stated that everything possible must be done to keep housing affordable. Montana has one of the highest rates of home ownership in the nation, approaching 70%. For the other 30%, home ownership is seemingly impossible. Since 1990, housing costs have doubled, lot costs have tripled, and salaries have remained virtually flat. Using the HUD standard of spending no more than 1/3 of disposable income for housing, the average income is not enough to purchase a moderate priced new home. The cost of an average new home in Montana has just exceeded \$150,000. In 1991, the Montana Board of Housing Programs financed one out of every ten home purchases in the state. In 1999, these programs financed one out of every five purchases in the state. More and more people are dropping under that line. In most communities, home ownership programs are not subsidy programs but programs which provide first time home buyers with home buyer education, down-payment assistance, decent rental housing, neighborhood housing redevelopment and community infrastructure. These are programs which lift people up and provide the stability and self esteem which decent housing brings. **Mr. Roberts** urged passage of SB 244.

Linda Stoll, for the **Montana Association of Planners**, added support for SB 244, the affordable housing criteria bill.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

SEN. ROYAL JOHNSON remembered how the Treasure State Endowment was formed with the idea of taking part of the Coal Tax Trust,

keeping a trust within the Coal Tax Trust, and using the interest income to fund different projects. That fund has not grown enough to do anywhere near the kind of projects done through the Endowment. He asked where the money comes from for the projects in that case. He remembered that about \$25 million dollars was originally put into the fund. He wondered how much money is currently available over the biennium.

Newell Anderson stated that this biennium the legislature is considering funding \$14,778,736 worth of projects, the revenue estimate for TSEP. *[At this point there was a problem with the tape recorder]* **SEN. JOHNSON** asked about the interest and principle from the Treasure State Endowment. **Mr. Anderson** stated that interest was about \$14 million; principle was estimated at \$100 million.

SEN. TOM ZOOK asked for a ballpark estimate of low and moderate income rates. **SEN. HALLIGAN** replied that for a family of four it was \$43,000 or less or \$20,000 or less depending on the county. HUD looks at median incomes at 60-80% of median. A chart could be provided of median incomes by county.

SEN. CHRISTIAENS stated that according to the Fiscal Note, there would be no impact to the general fund this time, but that next session housing projects will compete with other projects for funds. **Mr. Anderson** replied that by next session that would be the case.

SEN. TOM BECK asked for a description of what is meant by infrastructure. **SEN. HALLIGAN** gave the definition that is in current statute.

EXHIBIT (fcs19a08)

SEN. BECK asked about the need for the bill if local government can already ask for grants. **SEN. HALLIGAN** replied that competition for the money is fierce. Infrastructure projects can't compete with health and safety projects. The problem is how to nudge or boost the infrastructure area yet dovetail with existing programs and not change criteria.

{Tape : 2; Side : A} (Note: Side B blank)

SEN. BECK stated that the criteria for TSEP grants is fair, so why give points to infrastructure. **Mr. Anderson** reiterated that a housing application would never replace numerically a public health and safety hazard that is clearly documentable. **SEN. BECK** asked if a housing project would bump a project that garnered a maximum amount of points. **Mr. Anderson** restated that a non-

critical housing project would not rise above a public health and safety issue from some other community.

SEN. ZOOK expressed concern about language in the bill regarding non-profits. **Mr. Anderson** assured him applications can't come from anyone other than what the existing statute allows. A private non-profit might be a sub-sponsor of a development in conjunction with a city, a county or a special district. All of the money given out that the legislature approves would have to be given to a local government and those facilities would have to remain owned by a local government. **SEN. ZOOK** said that in order for that to be the case the wording would have to be changed. **SEN. HALLIGAN** indicated that there was no intent to change who could apply. A local government has to apply for an infrastructure project and all this bill says is that a non-profit can be a sponsor of a housing project, but not an applicant. **SEN. ZOOK** again read the language in the bill. **SEN. HALLIGAN** said that maybe there was some clarity that needed to be added. The language says that a non-profit can work with a local government to supply housing.

SEN. JON TESTER had a question about proposals from local governments. He felt the language concerning non-profits should be amended out and thought an attorney's opinion was necessary.

SEN. HALLIGAN read language from the bill that defined local governments.

Closing by Sponsor:

SEN. HALLIGAN closed for SB 244, saying that the bill was an attempt to try to deal with the housing issues in all the districts, an attempt to keep local control. He said he would work with the committee to clarify the language on the non-profit issue.

EXECUTIVE ACTION ON SB 179

Motion: **SEN. ZOOK** moved that **SB 179 AS AMENDED DO PASS.**

EXHIBIT (fcs19a09) (SB017902.apj)

SEN. ZOOK said that the purpose of the amendment is to obtain more information from the University System.

Motion/Vote: **SEN. ZOOK** moved that **AMENDMENT TO SB 179 BE ADOPTED.**
Motion carried 16-1 with Miller voting no.

SEN. MIGNON WATERMAN addressed the change in reductions for agencies from 85% to 95% on page 3 of the bill. In her

subcommittee, proposals were brought in to meet the 15% reduction. They were cutting 100% federal funds, which does absolutely no good. The times when this will be used is when expenditures need to be lowered in the general fund budget. She stated the need for an additional amendment; that if this is to be a useful tool, then the 5% cuts need to be from general fund programs.

SEN. JOHNSON questioned the intent of line 24 p.3 which reads "90% of current budget or lower if directed by the budget director." **Clayton Schenck, Legislative Fiscal Analyst**, answered that a budget director could direct another percentage depending on the budget situation being faced in that session.

SEN. JORGENSEN remarked, in consideration of **SEN. WATERMAN's** amendment, that the language should be 95% of each fund type. In an agency that is 96% federal funds and 4% general fund, then 5% coming out of general fund would wipe out all the general fund. Each fund type would have 95%, whether general fund, state special or federal fund.

SEN. WATERMAN did not understand when a 5, 10, or 15% reduction in federal funds or the state special would be asked for. In the committee on which she serves, they have been looking for general fund reductions. The language might need to be 5% of the general fund expenditure. She wondered about the reason for 5% of federal funds.

SEN. JORGENSEN replied that there are fiscal issues in the DOT, and that if revenues are not adequate, that the DOT would need to identify some cuts. On state funds that are the responsibility (of the legislature), it should be by fund type so that one kind of fund type does not account for the reductions required by another kind of fund type. A reduction on state special cannot be claimed against what should be a reduction in general fund. Conversely, a general fund reduction should not be required if the reduction is necessary in the state special.

SEN. CHRISTIAENS concurred with **SEN. JERGESON**. He said that in the DOJ there are many grants that require only 10% of general fund. If 5% is cut, then it is not possible to get the federal funds. In the DOT, there are only requirements of 10% and in some cases 13% of general fund as the match. There needs to be 5% taken across the board in all of the different funding mixes.

SEN. BECK explained that **SEN. WATERMAN** was trying to say that they were just looking at that portion of the general fund obligation. If there is a 9 to 1 match with federal funds to general fund, the 5% cut should be made in the general fund even

though it will cut some federal funds. If the budget is going to be cut, it must be in the general fund; look at the general fund appropriation and make a 5% cut in general fund, not in the entire funds. The 5% in general fund could affect some matching money.

SEN. ZOOK agreed with **SEN. BECK** and **SEN. WATERMAN**. He explained that the budget director makes decisions and if a 5% reduction in a human service budget or DOT would cost a great deal of highway funds, it would not happen. When he first saw the bill, he was thinking general fund.

SEN. JOHNSON said that, since the bill came out of OBPP, he wanted to hear an explanation of the situation from **Jane Hammond**.

Jane Hammond, OBPP, said that the intent of the bill was to try to clarify that the language should be general fund (concurring with **SEN. WATERMAN**) because there are other provisions in

substantive law that require a balanced budget whether it is highway funds or any other state special revenue account. If there is a reduction made in general fund, then any other fund that is impacted by that fund as a match or a requirement would be adjusted accordingly. OBPP was trying to clarify first that it was the appropriations act in the pay plan. That kind of clarity did not exist from the last legislative session. **SEN.**

JOHNSON asked why it would have been changed from 85% to 95%.

Ms. Hammond said that they looked at the angst of the agencies, and the concern was about putting whole programs or bureaus or other items on the block when the projections for revenue did not indicate that reductions of that amount were needed. Once those kind of reductions become public knowledge, it affects staff morale and productivity from the time they're submitted to the budget office until the time the legislature leaves town. That is not in the best interests of the citizens of the State of Montana. Rather, 5% would be a working number and if revenue projections are lower, then the budget director would have the requirement and opportunity to ask for whatever is required.

SEN. JERGESON explained that if the discipline measures are only placed on agencies funded by general fund dollars, and not applied to agencies who only operate on state special, more agencies will want to get out of general fund and move back to State Special. In the last several biennia, much work has gone into reducing the number of State Specials and statutory appropriations. The language needs to be phrased that the reductions need to be described within the fund types. For some agencies, it will be no great problem and the cuts would not need to be put into effect if the revenue source is fully adequate.

CHAIRMAN KEENAN stated that there was a conceptual motion by **SEN. WATERMAN** on the floor dealing with the general fund only.

Substitute Motion: **SEN. JERGESON** moved **TO INSERT FOLLOWING "BUDGET" ON LINE 24 TO READ "BY FUND TYPE"**.

CHAIRMAN KEENAN asked if that would be all inclusive, asking for 5% by fund type. There would be more projects: general, federal, state and state special revenue. **SEN. JERGESON** replied that most of those would probably be ignored if they have adequate revenues in their state special revenues account.

SEN. BECK asked if they would be asking for 5% reduction in general fund, 5% reduction in special revenue funds such as the gas tax, 5% in federal funds and whatever funds are out there. He thought the bill was a working tool to help on the general fund. Whatever is phrased in the highway tax fund is matching money for federal funds. He questioned cutting that fund. The main goal is to try to identify general fund. The main purpose is to try to get the budget in line.

SEN. JERGESON stated that he did not necessarily want to cut anywhere. There could be a source of revenue for a fund type that may not be generating the anticipated revenues and the legislature would have to develop some budget reductions for that particular fund type. In the DOT budget, if the revenues have been reduced by ballot measures, or if gas tax revenues aren't adequate to balance the budget, there must be a place to cut. That agency should have to identify the 5% to cut as well as an agency that is funded by the general fund. All the agencies would be treated equally. If the cuts don't need to be used, they won't be but they should at least be identified. If general fund agencies identify where they might exercise some discipline, there is no reason or rationale for other agencies not to identify the same kind of discipline opportunities.

SEN. ZOOK asked if enterprise funds would be included. **SEN. JERGESON** said he was not sure it would make any difference. **SEN. ZOOK** thought there would be no advantage to having enterprise funds involved. **SEN. JERGESON** said it didn't matter where agencies were funded from; they should know their budgets well enough to identify where they might have to reduce. **SEN. ZOOK** said it wouldn't help the ending fund balance. **SEN. JERGESON** said it wouldn't help the general fund's ending-fund balance, but it might keep a particular fund's balance in line. There cannot be a positive general fund's ending-fund balance with a deficit in any of the other funds.

CHAIRMAN KEENAN commented that the answer to **SEN. ZOOK's** question was on line 23 and 24, that it is basically HB 2 and the proposed state pay plan. Enterprise funds wouldn't apply.

{Tape : 3; Side : A} (problems with connection to sound system affected tape)

Vote: Motion for Substitute Amendment to insert "by fund type" following "budget" on line 24 failed 8-10 with Christiaens, Cobb, Crismore, Jergeson, Johnson, Mohl, Nelson, and Stapleton voting aye.

Vote: Motion to pass Amendment to insert "general fund" language passed 12-6 with Tester, Johnson, Jergeson, Stapleton, Christiaens, and Cobb voting no.

Vote: Motion that SB 179 DO PASS AS AMENDED passed 13-5 with Christiaens, Cobb, Jergeson, Johnson, Miller voting no. (SEN. ZOOK carried a proxy for SEN. MOHL)

ADJOURNMENT

Adjournment: 6:45 P.M.

SEN. BOB KEENAN, Chairman

PRUDENCE GILDROY, Secretary

BK/PG

EXHIBIT (fcs19aad)